

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4974 of 1991

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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FAKRUDDIN K PITOLWALA

Versus

STATE OF GUJ  
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Appearance:

MR GR SHAIKH for Petitioner  
NOTICE SERVED for Respondent No. 1  
GOVERNMENT PLEADER for Respondent No. 2  
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CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI

Date of decision: 07/07/2000

ORAL JUDGEMENT

The petitioner is running a petrol pump on land  
admeasuring 3 acres in Village Rabdal of Taluka Dahod.  
This land was purchased by him from Desai & Co. which was  
running the petrol pump at the said place.

2. The Collector, Panchmahals by order dated 31.12.85 fixed the rent of the land, aggrieved whereupon the petitioner preferred a revision to the Secretary (Appeals), State of Gujarat.

3. The Secretary (Appeals) confirmed the impugned order of the Collector (Annexure C) dated 31.12.1985 whereby the market value of the disputed land is determined at Rs.10/- per sq.mtrs. Annual rent at the rate of Rs.21,237.80 has been determined and found payable by the petitioner as the lease holder.

4. Ld.Counsel appearing for the petitioner read the relevant part of the contents of the order Annexure C passed by the Collector and explained the same to me as they are in gujarati.

5. It is pointed out from the impugned order Annexure C of the Collector that a written statement given by the Deputy Town Planner was considered for determining the annual rent but the said written statement of Dy. Town Planner was never disclosed to the petitioner and he had no opportunity of meeting the same.

6. Ld. Counsel submits that the valuation of the annual rent fixed is extremely exorbitant.

7. I have also heard Mr.B.L.Jani, Ld. AGP appearing for the State.

8. By this petition, the petitioner only claims a fresh opportunity of hearing by the Collector as he could not meet the valuation suggested by the Dy. Town Planner at the time of passing of the impugned order. This Court finds it expedient and in the interest of justice to allow the petitioner a fresh chance of hearing for fixation of annual rent of the land in his possession as a lessee. As a result of the discussion aforesaid, the impugned orders at Annexure C of the Collector and Annexure D of the Secretary (Appeals) both are set aside and the case is remanded to the Collector, Panchmahals for granting opportunity of hearing to the present petitioner and for re-determination of the value of the land and the annual rent thereon. Ld. Counsel stated that in terms of the interim order passed by this Court as a condition of stay, the petitioner has deposited a sum of Rs.70000/with the Collector, Panchmahals. The said amount in deposit shall be adjusted towards the rent determined and found payable by the petitioner. The petition is allowed. Rule made absolute. In the

circumstances, there shall be no order as to costs.

(D.M.Dharmadhikari, CJ)

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